

BDAC ASSURANCES WORK GROUP

Meeting Summary May 29, 1998

The BDAC Assurances Work Group held its fifteenth meeting on May 29, 1998 from 1:30 p.m. until 4:30 p.m. in Room 1131 of the Resources Building.

BDAC Members present:

Hap Dunning
Stu Pyle

CALFED Staff/Consultants:

Lester Snow
Stein Buer
Sue Lurie
Eugenia Laychak
Dave Fullerton
Mike Heaton
Marti Kie

Others present:

Cary Wright	Dennis O'Connor	Randall Neudeck
A. Jeffers	Robert Cermak	David Blau
Dan Keppen	Tiki Baron	Doug Wallace
Priscilla Hanford	Sally Shanks	Steve Harrera
Bill Boettcher	Earl Nelson	Lori Clamurro
Lisa Asche	Tom Hagler	John S. Mills
Megan Rathfon	Amy Fowler	Laura King
Marna Miller	Fred Kindel	Dante Nomellini, Jr.
Cynthia Koehler		

1. Work Group Chair Hap Dunning convened the meeting at 1:30. Meeting participants introduced themselves.

2. The summary of the April 28 Assurances Work Group meeting was reviewed. Bill Boettcher had two comments/questions about the summary. First, he suggested that the summary be corrected to make it clear that, with respect to the list of Levee Assurances on page 5, there was no agreement or consensus among the Levee Team members as to how the "common pool" should be protected or maintained as an assurance. Second, he questioned whether Dick Daniel had said, in his presentation to the Work Group, that the Ecosystem Restoration Program (ERP) would rely on the "common pool." Bill asked for a clarification whether Dick meant that the ERP would rely on the levee system, or whether he meant the ERP would rely on the "common pool" as the term is used to describe the Delta as a common source of water for Delta interests, exporters and environmental uses. Heaton said he would check this with Dick Daniel. Dick Daniel's clarification was as follows: The ERP is reliant on good coordination with the levee program and dependent on maintenance and enhancement of water quality. The "common pool" is one way to maintain water quality. Maintenance of Delta water quality standards and improving quality of water coming into the Delta are others.
3. Randall Neudeck reported that the Ag Urban Group is continuing to work on a position paper on the CALFED program generally and a discussion paper on the issue of ecosystem program management.
4. Cynthia Koehler asked when CALFED will respond to the March 3 comment letter from the Environmental Water Caucus (EWC). She said that before EWC submits more detailed comments, a general program response would be helpful. She also expressed concern that elements of the assurances package appear to have been scattered among a number of different working groups.

Lester Snow replied that a response to the comment letter would be prepared but that it may take some time. He also agreed that aspects of the assurances package are being worked on in different venues, but that eventually all the pieces would come back to the Assurances Work Group.

5. Sue Lurie reported that she is continuing to work on the Contingency Response Process and is also starting some research on different models of management entities.
6. Sue also announced the schedule for the next four Assurances Work Group meetings: July 7; September 3; October 23; December 4.
7. Lester Snow provided a status report on the program schedule and discussed the concept of staged implementation. There has been a shift in program focus. The immediate objective is no longer a final PEIR/EIS by the end of 1998. Instead, CALFED intends to release a revised draft PEIR/EIS, which includes a draft preferred alternative, by December 1998. The final PEIR/EIS would be done later in 1999. There will be substantial emphasis on implementation of Phase 1, those actions which can be implemented in the first seven to ten years of the program.

Given this revised schedule, Lester said he would like to have a draft Assurances Framework that could be incorporated into the revised draft PEIR/EIS by the end of this year.

Stein Buer provided an overview of the current thinking regarding the development of the Implementation Plan for the preferred alternative that will be incorporated into the revised draft PEIR/EIS. He described the factors which go into the concept of staged implementation (such as the number of actions to be implemented, the timing and priority of individual actions, linkage among actions and adaptive management changes in actions). He described some of the principles of the implementation plan: complete each stage before going to the next; no single group can stop the program; all groups have inducements to go to the next stage of implementation.

In response to Hap's question, Stein said that what had been considered as the preliminary assurances and finance package will be integrated into the Implementation Plan.

Stein also described a number of possible linkages which could be incorporated into the first stage of implementation.

8. Lester and Stein then discussed what is referred to as the "Nature of the Decision" issue. This is the question of how specific or definite the decision should be regarding the storage and conveyance components of the preferred alternative. One end of the range of possibilities is a firm decision about the preferred alternative (in particular whether there will be new facilities). The other end of the spectrum is to set up a decision making process but defer the actual decision about the facilities component of the preferred alternative for several years. CALFED is currently seeking some middle ground, where the programmatic EIR/EIS is broad enough to cover a preferred alternative with or without new facilities, and certain conditions are identified which will determine whether new facilities will be constructed. This approach to the nature of the decision is consistent with the concept of staged implementation, where common component actions are implemented over a period of several years, and then a decision is made whether new conveyance and/or storage facilities are necessary.

This can also be thought of as an "on ramp" or "off ramp" approach. With the "on ramp" the presumption is that there will not be new facilities unless certain conditions precedent are met. With the "off ramp", the presumption is that there will be new facilities unless certain conditions exist at the time of the decision point.

Either approach puts a significant burden on the decision making process and the management/governance of the program. Who will make the decision about facilities? Who will decide if the criteria have been met or that conditions exist which justify a decision one way or the other.

There was a lengthy discussion about what would be involved in either approach, and how the facilities decision can drive other parts of the program such as habitat improvement actions. There was also some discussion about how the process for making a decision about facilities would affect cost sharing negotiations.

Lester observed that it might be necessary to rethink the existing alternatives to make this approach work, because decisions several years into stage one on new facilities may "strand" investments made in earlier years or other parts of the Program.

9. Sue Lurie presented the current draft of the Contingency Response Process discussion paper. She asked for comments by June 12. There was some discussion of the decision making process associated with contingency responses. The question is who or which agency will make the decision about the appropriate response to a particular contingency event. Some believe that the best way to avoid this issue is to internalize responses to the extent possible, (i.e, integrate them into the program) so that the contingency response process will only rarely be needed. It was also suggested that a key aspect of the process is that contingency events should be resolved at the lowest administrative level possible.
10. Tiki Baron presented a status report on the draft conservation strategy. She explained that the premise behind the conservation strategy is that a Habitat Conservation Plan (HCP) will not be sufficient to deal with all the likely ESA issues.

The Conservation Strategy will provide a blueprint for assessing the effects of all common program actions, as well as the storage and conveyance facilities, and facilities operations. It will describe what has to be done to get the program permits required under the ESA/CESA; and it will identify conservation and mitigation measures to be included in the program.

The tools to be used in the conservation strategy are the ESA Section 7 consultation process, the ESA Section 10 permitting process, and the NCCP process under state law.

Another principle of the conservation strategy is that the level of assurances provided will be the same regardless of the implementation mechanism.

The current schedule calls for a preliminary draft conservation strategy to be available for public review in late summer, with a more detailed draft to accompany the final draft PEIR/EIS in December of 1998.

The meeting was adjourned at 4:30 p.m.